



June 9, 2009

Reply to Attn of: XD040/Procurement Division

To: All Potential ACES Offerors
From: NSSC Procurement Officer
Subject: Questions and Answers Regarding Potential Organizational Conflicts of Interest on RFP
NNX09272008J, "Agency Consolidated End-user Services"

The NSSC Procurement Division, like all procurement offices throughout NASA, takes its obligation to insure the integrity of the procurement process very seriously. As you are aware, the NSSC is unique within NASA resulting from an OMB A-76 competition won by a team led by the Computer Sciences Corporation (CSC). In preparation for assumption of host center responsibilities for the Enterprise Service Desk (ESD), Enterprise Service Request System (ESRS), and the Agency Consolidated End-user Services (ACES) project office, the NSSC reviewed its relationship with the CSC team to identify any potential or actual organizational conflicts of interest and enact reasonable and prudent measures to mitigate those conflicts.

The actions we have taken to identify potential or actual organizational conflicts of interest, our compliance reviews, and the mitigation and avoidance measures have been reviewed and concurred with by the NSSC's legal counsel, Headquarters Office of Procurement, and Headquarters Office of General Counsel. These measures were put into place prior to and contemporaneously with the release of the ACES draft RFP and the RFP for ESD and ESRS to CSC and will continually be assessed during the conduct of these procurements. The NSSC believes that these measures are effective and ensure a level playing field for all firms interested in responding to the ACES RFP.

The remainder of this memo specifically addresses each of the eight questions regarding potential organizational conflicts of interest on the ACES RFP received by the ACES procurement development team to date.

1. The information provided on the I3P Technical Library does not include the CSC base contract #NNX05AA01C; thus it is unclear whether that contract includes clauses dealing with OCI, or otherwise requiring the exclusion of CSC from participation in the ACES procurement. To address this, please provide the full contract terms for contract #NNX05AA01C, specifically any terms dealing with OCIs or any limitation of future contracting.

Response: NSSC Contract NNX05AA01C (and its modifications) with CSC resulting from the OMB A-76 competition is available for download from the NSSC's FOIA website. The URL for the NSSC's FOIA website is <http://www.nssc.nasa.gov/foia/>. Clauses relative to organizational conflicts of interest include:

| Clause Number | FAR/NFS Number | Title |
|---------------|----------------|--|
| G.8 | Unnumbered | Access to Confidential Information |
| H.1 | 1852.209-71 | Limitation On Future Contracting |
| H.6 | Unnumbered | Handling of Data |
| I.1 | 52.203-8 | Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity |
| J-6 | Unnumbered | Handling of Data Plan |
| J-8 | Unnumbered | Organizational Conflict of Interest (OCI) Avoidance Plan |

The clauses identified in the table above will be copied from Contract NNX05AA01C and also posted on the I3P website.

2. *Post a statement on the I3P - ACES website that specifically addresses whether CSC is excluded, or not excluded, from participating in the ACES contract as a prime or subcontractor, based on their work on the ESD/ESRS project under contract #NNX05AA01C.*

Response: Prior to release of the ACES draft RFP, NASA carefully examined the work CSC would be performing in support of the ESD and ESRS efforts before the determination was made that CSC would be eligible to compete for the ACES contract as either a prime or subcontractor. The work CSC is now performing on the ESD and ESRS efforts involve:

- Consolidating, establishing, and providing Tier 1 service desk functions currently performed by the ODIN and NISC help desks as these contracts end and/or are replaced by the upcoming I3P contracts.
- Establishing a Tier 0 self service web interface for user and system status inquiries, FAQs, and access to a knowledge database for known customer incident/problem resolutions/work-arounds.
- Providing service integration management services for the ESD and ESRS efforts related to ESD/ESRS-specific Service Level Indicators (SLIs), reporting from the ESD/ESRS configuration management database for I3P services and SLI metrics, and providing configuration management support and service continuity management for ESD/ESRS support systems and processes.
- Establishing a core ordering capability for I3P services defined in the enterprise service catalog/NASA Enterprise Architecture Repository.

The NSSC concluded there would be no conflict based on "impaired objectivity" because performance of these tasks would not require CSC to use their subjective judgment. Additionally, the NSSC concluded there would not be a conflict regarding "biased ground rules" because the performance of these tasks would not enable CSC to improperly influence any of the I3P contracts, whether intentionally or not, in favor of itself. Although the performance of these tasks may create a conflict based on "unfair access to data," such a conflict is adequately mitigated by CSC's installation of the firewall addressed in our response to Question No. 5 below. In addition to the firewall, NSSC has disseminated all relevant ESD/ESRS information to all potential I3P offerors on the I3P website.

It should be noted, the NSSC does not feel it would be appropriate to post a statement regarding the eligibility of any firm to participate in the ACES procurement on the I3P website. Questions regarding a firm's eligibility, if submitted by a potential offeror, will be answered and disseminated in the same manner as any other question regarding the RFP.

3. *Given CSC's award of the Enterprise Service Request System contract (NNX05AA01C), will CSC be conflicted out of bidding on the ACES contract as a prime or a sub?*

Response: The NSSC has determined that CSC is eligible to compete for the ACES contract as either a prime or subcontractor. Please see the NSSC's response to Question No. 2 for a more complete discussion of this issue.

4. Given CSCs position as the contractor supporting the Enterprise Service Desk, will they be conflicted out (prohibited from) of priming or exclusively subcontracting to another prime on the ACES procurement?

Response: The NSSC has determined that CSC is eligible to compete for the ACES contract as either a prime or subcontractor. Please see the NSSC's response to Question No. 2 for a more complete discussion of this issue.

5. If CSC is not excluded from bidding on the ACES contract, please post to the I3P – ACES website the specific protective measures that NASA, CSC and any team members of CSC, have put in place to mitigate the competitive advantage that has been gained by being the development and integration contractor for the ESD/ESRS functionality and to ensure equal access and integration support to any ACES competitor.

Response: Protective measures in place to mitigate any potential or actual competitive advantages can be grouped into one of four broad categories: firewalls established by CSC, compliance reviews conducted by the NSSC, dissemination of information relative to the ESD and ESRS on the I3P website, and contractual requirements in Contract NNX05AA01C.

Firewalls Established by CSC (Will not be posted on the I3P website)

- CSC's North American Public Sector, Civil Division established a firewall prohibiting any CSC team member (including subcontractors) from working at the NSSC on any I3P or other NASA procurement. This firewall includes the specific limitation on reassigning CSC personnel from the NSSC to other CSC sectors who might have access to non-public data regarding any of the pending I3P contracts. This limitation will prevent CSC from using any affected NSSC employees on a future I3P proposal team. This was communicated to all CSC sectors on February 5, 2009.
- CSC's local program manager at the NSSC has been delegated exclusive authority for development, review and submittal of all contractual and pricing information relative to ESD and ESRS. No one outside the CSC management team at the NSSC will have access to that data.

Dissemination of Information Relative to the ESD and ESRS (Posted on the I3P website)

- Change Order No. 28 to Contract NNX05AA01C
- ESD/ESRS Performance Work Statement
- Technical Exhibit 1 - Performance Workload Data
- Technical Exhibit 2 - Performance Requirements
- Technical Exhibit 3 - DRDs
- Technical Exhibit 4 - Transition
- ESD ESRS Timeline v3.7
- ESD ESRS CONOPS v5.3
- ODIN & NISC Tower Escalation Data (Summary)
- FY08 NISC & ODIN Call Data Analyzed for Tier Level of Resolution
- ODIN & NISC Call Types FY08
- Questions and Responses #1 Relative to Change Order No. 28
- Questions and Responses #2 Relative to Change Order No. 28
- Questions and Responses #3 Relative to Change Order No. 28
- Minutes from the system concept review scheduled for May 22, 2009 (to be posted)
- Minutes plus documentation prepared pursuant to NPR 7120.7 by CSC from the system requirements review targeted for July 15, 2009. CSC documentation containing staffing or pricing information will be excluded. (to be posted)
- Minutes plus documentation prepared pursuant to NPR 7120.7 by CSC from the preliminary design review targeted for September 1, 2009. CSC documentation containing staffing or pricing information will be excluded. (to be posted)

Contractual Requirements in Contract NNX05AA01C (Only clauses and Attachment J-8 will be posted on the I3P website)

In addition to Clause G.8 "Access to Confidential Information", Clause H.6 "Handling of Data", Clause 52.203-8 "Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity", and Clause 1852.209-71 "Limitation on Future Contracting", Contract NNX05AA01C contains the following attachments directly relevant to organizational conflicts of interest:

- Attachment J-6 "Handling of Data Plan": This is a comprehensive plan applicable to CSC and all subcontractors working at the NSSC. The plan recognizes that the performance of this contract requires extensive access to, use, transmission of, storage and release of sensitive data, including but not limited to: proprietary commercial data, cost and pricing data, competition sensitive data, technical data, test data, software, administrative data, management information, financial data and privacy act data. The "Data Handling" plan integrates best practices with the "IT Security" plan and the "Conflict of Interest Avoidance" plans. Although each of the plans addresses different perspectives on the issue, their common purpose is to prevent unauthorized use, release, duplication, disclosure or dissemination of those data entrusted to CSC to support operations of the NSSC. Specifically the "Data Handling" plan addresses: preventing unauthorized access to sensitive data, preventing misuse by CSC employees – operational controls, and general data handling considerations. The NSSC plans to carefully monitor and enforce the provisions contained in this attachment to insure CSC remains completely within the bounds specified.
- Attachment J-8 "Organizational Conflict of Interest Avoidance Plan": This is a comprehensive plan applicable to CSC and all subcontractors working at the NSSC. The plan identifies potential areas that may create the appearance of an organizational conflict of interest such as: administration of drug testing, human resources privacy data, payment of contractor invoices, and competition sensitive procurement data along with strategies for avoiding conflicts of interest.
- Addendum No. 1 to Attachment J-8 "Organizational Conflict of Interest Avoidance Plan": This addendum was issued by CSC on February 3, 2009 to provide proactive precautionary measures in light of the pending I3P solicitations and Tier 1 help desk effort. The addendum requires all CSC team members (including subcontractors) to attend an OCI refresher course and sign revised non-disclosure agreements that specifically address many of the potential OCI problems associated with any effort with which CSC may be involved regarding potential offers on the upcoming I3P solicitations.

Compliance Reviews Conducted by the NSSC (Will not be posted on the I3P website)

- NSSC conducted a regularly scheduled quality surveillance review of CSC's Organizational Conflict of Interest Avoidance Plan in July 2008 and found CSC to be in compliance with the terms of the plan.
- At the request of the Assistant Administrator of Procurement and in preparation for the release of the I3P solicitations, the NSSC conducted a second review of CSC's Organizational Conflict of Interest Avoidance Plan relative to safeguards for the ACES procurement in November 2008. Again, CSC was found to be in compliance with the terms of the plan.
- NSSC legal counsel conducted a separate review of "potential organizational conflicts of interest issues regarding the upcoming assignment of the NSSC Tier one I3P helpdesk to CSC" for the Headquarters Office of General Counsel in April 2009 and determined that adequate firewalls, safeguards, and mitigations were in place.

6. *We believe that CSC should be prohibited from priming or exclusively subcontracting to another prime on the ACES procurement given their exclusive position as an existing subcontractor and the unfair advantage they have in the I3P procurement process. They have unique knowledge that is unable to be obtained by the rest of the competitors, regarding potential end-user service solutions.*

Response: CSC's eligibility to compete for the ACES contract as either a prime or subcontractor has been addressed in our response to Question No. 2. Please see the NSSC's response to Question No. 5 for a more complete discussion of the actions that the NSSC has taken to disseminate information relative to the ESD and ESRS.

7. If CSC is not excluded from bidding on the ACES contract, it is recommended that NASA modify the Evaluation Factor language in the ACES draft RFP's to delete any subfactors that deal with the completeness and efficiency of the Offerors solution with the integration of the ESD and ESRS.

Response: Integration of the ESD and ESRS is an element found in all three subfactors under the "Mission Suitability" factor. It is most prominently mentioned in the "Integration Approach" subfactor, but is not in itself, a separate subfactor. In addition to evaluating the integration approach of the ACES work to that performed under the ESD and ESRS efforts, the "Integration Approach" subfactor also considers:

- Integration approach of the ACES work to that performed under the other four I3P contracts (NICS, EAST, WEST, and NEDC).
- Use of associate contractor agreements.
- Establishment of clear roles and responsibilities, lines of communication, dispute resolution procedures, and continuous improvement initiatives among the I3P contractors.
- Processes and procedures for resolving customer service requests, incidents, and problems that cross I3P contracts.
- Implementation of governance processes and procedures originating from the OCIO and service integration management.

This subfactor is an important consideration in the selection of the new ACES contractor and cannot be removed from the solicitation. However, references to the "integration approach with the ESD and ESRS will be modified by explicitly acknowledging the current state of the ESD and ESRS and stating that the evaluation will only consider an integration approach based on the ESD/ESRS functional requirements, configuration, and approved design requirements as published on the I3P website.

8. If CSC is not excluded from bidding on the ACES contract, please provide sufficient time for the ACES Offerors to review and respond to the information included in CSC's June 15th proposal regarding ESD/ESRS, as well as NASA's final direction to CSC based on NASA's final ESD/ESRS System Requirements Review. Since the planned System Requirements Review is scheduled for mid – July, it is suggested that the information be made available to potential ACES Offerors immediately after that review (i.e., in the mid – July timeframe), and that Offerors are allowed a reasonable amount of time after receipt to review the CSC technical solution information for ESD/ESRS and make adjustments to their ACES proposal response.

Response: The NSSC will post the ESD and ESRS information delineated in our response to Question No. 5 on the I3P website as soon as practical. If necessary, the due date for receipt of ACES proposals may be adjusted to allow offerors the opportunity to adequately review this data and make adjustments to their proposals.

In summary, I believe the NSSC has diligently identified potential and actual organizational conflicts of interest and enacted reasonable and prudent measures and firewalls to resolve the identified conflicts. The resolution measures include a series of contractual safeguards, actions taken by CSC to firewall their capture teams and prevent official communication with the employees working at the NSSC, and vigilant surveillance of this issue by the NSSC until the I3P contracts are awarded. Many of the measures articulated in this letter will be appended to the final RFP in order to better inform all offerors of the measures the NSSC has taken thus far. Note also that these measures are consistent with industry and Government practice and are being more frequently employed to address conflicts arising from the shrinking industrial base.



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